

A.G. Contract No.: KR05-0427TRN
ECS File No.: JPA 05-027
Project No.: HRF-PPN-0-813
Section: Eleven Mile Corner Road
Project: Roadway Improvements
TRACS No.: HF113 01C/01D/02C/03C
Budget Source Item No.: N/A
HURF Exchange Program

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
PINAL COUNTY

THIS AGREEMENT is entered into this date July 25, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and PINAL COUNTY, acting by and through its BOARD OF SUPERVISORS (the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes § 11-251 & 11-951 et seq. to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.

3. The State has approved the exchange of Highway User Revenue Funds (HURF) in the amount of \$30,000.00 in fiscal year 2004 to the County for **design** of Eleven Mile Corner Road from Selma Highway to Hanna Road. Such funds shall be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) Federal funds and the obligation authority for Federal funds in the amount of \$34,023.00 in fiscal year 2004.

4. The State has approved the exchange of Highway User Revenue Funds (HURF) in the amount of \$170,000.00; fiscal year 2004, \$230,000.00 fiscal year 2005; and \$202,400.00 fiscal year 2007 to the County for **construction** of Eleven Mile Corner Road from Selma Highway to Hanna Road. Such funds shall be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) Federal funds and the obligation authority for Federal funds in the amount of \$192,795.00 in fiscal year 2004; \$260,841.00 fiscal year 2005 and \$229,540.00 in fiscal year 2007.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27640

Filed with the Secretary of State

Date Filed: 7/25/05

Janice K. Brewer
Secretary of State

By: [Signature]

II. SCOPE OF WORK

1. The County shall:

a. Provide design plans, specifications and other such documents and services required for construction bidding and construction of the roadway improvements of Eleven Mile Corner Road from Selma Highway to Hanna Road.

b. Be responsible for any contractor claims required for design of the Project for extra compensation due to delays or whatever reason attributable to the County.

c. Invoice the State in an amount not to exceed \$30,000.00 for the cost of design reimbursement.

d. Advertise for bids and award one or more construction contracts for the Project. Administer and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason attributable to the County. Comply with all applicable State laws, rules and regulations.

e. Invoice the State for thirty percent of the \$170,000.00 in 2004; \$230,000.00 in 2005 and \$202,400.00 in 2007 for project construction costs, upon award of the construction project

f. Invoice the State for thirty percent of the \$170,000.00 in 2004; \$230,000.00 in 2005 and \$202,400.00 in 2007 for project construction costs at the thirty percent and sixty percent project construction completion states.

g. Upon satisfactory completion of construction, approve and accept the project on behalf of the County herein, provide for the maintenance, at its own expense and provide the State with a letter documenting the notice of the approval and acceptance of the Project.

h. Upon completion of construction, invoice the State for the remaining ten percent of \$170,000.00 in 2004; \$230,000.00 in 2005 and \$202,400.00 in 2007, after the County; CAAG and the State representatives have completed final project review.

2. The State shall:

a. Withhold from CAAG, Federal funds and obligation authority of Federal funds in an amount of \$34,023.00 in fiscal year 2004 for the **design** of Eleven Mile Corner Road from Selma Highway to Hanna Road.

b. Within thirty-days (30) after receipt of an invoice and a letter confirming the **design** project has been completed, reimburse the County \$30,000.00.

c. Withhold from CAAG Federal funds and the obligation authority of Federal funds in an amount of \$170,000.00 in 2004; \$230,000.00 in 2005 and \$202,400.00 in 2007 for roadway **construction** of Eleven Mile Corner Road from Selma Highway to Hanna Road.

d. Within 30 days after receipt of an invoice and a letter confirming the construction Project has been awarded, advance the County thirty percent of the HURF funds.

e. Within 30 days after receipt and approval of construction invoices at the thirty and sixty percent construction completion stages, advance the County HURF funds in the amount of thirty percent at each invoiced stage for construction.

f. Within thirty-days (30) after receipt and approval of construction invoices, advance the County HURF funds for the remaining ten percent of \$170,000.00 in 2004; \$230,000.00 in 2005; and

\$202,400.00 in 2007 for the final roadway improvements of Eleven Mile Corner Road from Selma Highway to Hanna Road.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction project. The County assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. The County shall require its contractors to name the State and ADOT as an additional insured in the contractor's policies. The County shall also require its contractors to name the State and ADOT as an additional indemnitee in the County's contracts with its contractors. It is understood and agreed that the State's participation is confined solely to advancing Highway User Revenue Funds; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the County and that to the extent permitted by law, the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

2. This terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said Project and related reimbursement, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be canceled at any time prior to the award of the Project construction contract, upon thirty-days (30) written notice to the other party. It is understood and agreed that, in the event this Agreement is terminated by the County, the State shall in no way be obligated to maintain said Project.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be canceled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX (602) 712-7424

Pinal County
Attn: County Manager
P.O. Box 827
Florence, AZ 85232
(520) 866-6512

With a carbon copy to:
Joe Ortiz, Project Manager
P.O. Box 727
Florence, AZ 85232
(520) 866-6511

10. Pursuant to Arizona Revised Statutes, Section 11-952 (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

PINAL COUNTY

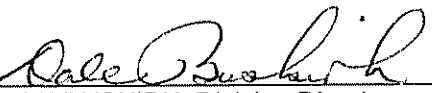
STATE OF ARIZONA

Department of Transportation

By

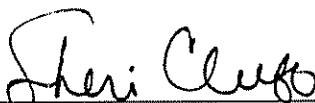

SANDIE SMITH, Chairman
Pinal County Board of Supervisors
0-25-05

By

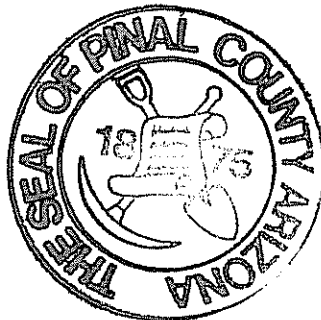

DALE BUSKIRK, Division Director
Transportation Planning Division

ATTEST:

By


SHERI CLUFF, Deputy Clerk
Pinal County Board of Supervisors

G:05-027-Florence-HURF-11May2005-slc

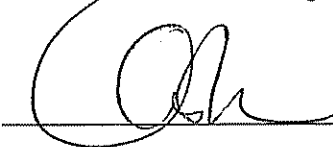


JPA 05-027

APPROVAL OF PINAL COUNTY

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the PINAL COUNTY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the COUNTY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 2nd day of June, 2005



Deputy County Attorney

When recorded, return to:
Clerk of the Board
Pinal County Board of Supervisors
P O Box 827
Florence, AZ 85232

RESOLUTION NO. 062205-JPA 05-27

**RESOLUTION OF THE PINAL COUNTY BOARD OF SUPERVISORS
AUTHORIZING PINAL COUNTY TO ENTER INTO INTERGOVERNMENTAL
AGREEMENT JPA 05-027 WITH THE STATE OF ARIZONA, ACTING BY AND
THROUGH ITS DEPARTMENT OF TRANSPORTATION, FOR THE PURPOSE
OF DEFINING RESPONSIBILITIES FOR THE EXCHANGE OF HIGHWAY
USER REVENUE FUNDS FOR THE DESIGN AND CONSTRUCTION OF
IMPROVEMENTS TO ELEVEN MILE CORNER ROAD FROM SELMA
HIGHWAY TO HANNA ROAD.**

WHEREAS, Pinal County is empowered by A.R.S. § 11-251 and § 11-951 et seq. to enter into Intergovernmental Agreement JPA 05-027; and,

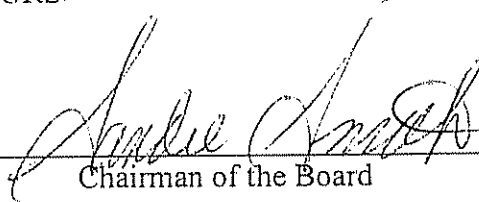
WHEREAS, the State of Arizona has approved the exchange of Highway User Revenue Funds (HURF) in the amount of \$30,000 in fiscal year 2004 to the County for design of Eleven Mile Corner Road from Selma Highway to Hanna Road. Such funds shall be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) Federal funds and the obligation authority for Federal funds in the amount of \$34,023; and,

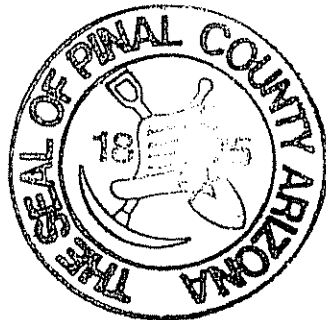
WHEREAS, the State of Arizona has approved the exchange of Highway User Revenue Funds (HURF) in the amount of \$170,000 for fiscal year 2004; \$230,000 for fiscal year 2005; and, \$202,400 for fiscal year 2007 to the County for construction of Eleven Mile Corner Road from Selma Highway to Hanna Road. Such funds shall be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) Federal funds and the obligation authority for Federal funds in the amount of \$192,795 in fiscal year 2004; \$260,841 in fiscal year 2005; and \$229,540 in fiscal year 2007; and,

WHEREAS, it is in the interests of the welfare and safety of the citizens of Pinal County to enter into Intergovernmental Agreement JPA 05-027.

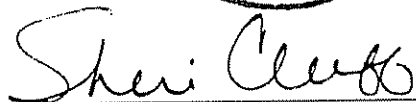
THEREFORE, BE IT RESOLVED: Pinal County is hereby authorized to enter into Intergovernmental Agreement JPA 05-027 with the State of Arizona, by and through its Department of Transportation, for the purpose of defining responsibilities for the exchange of Highway User Revenue Funds for the design and construction of improvements to Eleven Mile Corner Road from Selma Highway to Hanna Road.

PASSED AND ADOPTED this 22nd day of June, 2005,
by the PINAL COUNTY BOARD OF SUPERVISORS.


Chairman of the Board



ATTEST:


Deputy Clerk of the Board



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR05-0427TRN (**JPA 05-027**), an Agreement between public agencies, i.e., *The State of Arizona* and *Pinal County*, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: July 19, 2005

TERRY GODDARD
Attorney General

A handwritten signature in cursive script that reads "Susan E. Davis".

Susan E. Davis
Assistant Attorney General
Transportation Section

SED:mjf
Attachment
914825